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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,378	11/26/2003	Michael Charles Cirigliano	F6151(C)	8028

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UNILEVER INTELLECTUAL PROPERTY GROUP  
700 SYLVAN AVENUE,  
BLDG C2 SOUTH  
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/723,378

Applicant(s)

CIRIGLIANO ET AL.

Examiner

Anthony Weier

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmed.

Schmed discloses a method of brewing a beverage by inserting a coffee pack (10) into a funnel brewing chamber (2) of a brewing apparatus wherein a perforator means (which acts as a key means) from the funnel brewing chamber (8) is aligned and receives the filter pack, said filter pack having a receiving means upon puncturing from the perforator means (8; see figures) and wherein said filter pack is then subjected to water (e.g. Abstract; Figure 2, see 20).

3. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Lazaris et al.

Lazaris et al discloses a method of brewing a beverage by inserting a beverage cartridge (e.g. Figures 6-8)) into a funnel brewing chamber (28) of a brewing apparatus (col. 3, lines 8-24) wherein a perforator means (which acts as a key means) from the funnel brewing chamber (84) is aligned and receives the beverage cartridge and

wherein said beverage cartridge is also engaged by recessed receiving means of the beverage cartridge (see Figure 6, 50c) with raised/grooved areas of the funnel brewing chamber (see 300, which also act as key means), said filter pack having further having a receiving means upon puncturing from the perforator means (84; e.g. Figure 6) and wherein said beverage cartridge is then subjected to water (e.g. Abstract; Figure 2, see 20).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazaris et al taken together with Schmed.

The claims differ in that Lazaris et al is silent regarding the particular type of beverage to be formed. However, coffee is a notoriously well known brewing beverage produced by a beverage apparatus having a filter pack and funnel brewing chamber, as taught, for example, by Schmed. Absent a showing of unexpected results, it would have been obvious to one having ordinary skill in the art at the time of the invention to have brewed coffee in the beverage-making process of Lazaris et al as an art recognized brew product alternative.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmed (as applied in paragraph 2) or Lazaris et al (as applied in paragraph 3) and further taken together with Cohen and either one of Halliday et al or Boyd et al.

Schmed and Lazaris et al are both silent regarding the use of a filter pack suitable to brew certain brand of beverage wherein said brand is displayed on the beverage brewing apparatus. The concept of recognition by logo, barcode, color, etc. in matching a filter packet to the apparatus intended for use is well known as taught, for example, by either one of Halliday et al (col. 4, lines 39-54) and Boyd et al (page 2, paragraph 29). The general concept of tying in brand associated with a certain apparatus is notoriously well known as is the use of brand names on apparatus and articles to be used with certain apparatus. For example, inject printers inherently display a brand name and as taught, for example, in Cohen, printers frequently have particular cartridges which are custom fitted to their particular brand of printer (see col. 1, lines 7-34). In view of such concept, it would have been obvious to one having ordinary skill in the art at the time of the invention to have provided a filter pack which brews a brand of beverage which is associated with the brand of device used, since such concept in general is well known as evidenced by Cohen wherein one reason to modify the processes of either one of Schmed or Lazaris et al to include same would be to increase the sales to the company by allowing only brand-specific packets (or ink cartridges in Cohen, see col. 1, lines 20-22) to be used in the particular brand of brewer.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

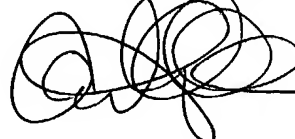
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier  
December 9, 2004

Anthony Weier  
Primary Examiner  
Art Unit 1761

  
12/9/04